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2 Federal Public Defender
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10 Attorney for: ESMEDIA GUMMERSON

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13 UNITED STATES DISTRICT COURT
14 DISTRICT OF NEVADA

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16 UNITED STATES OF AMERICA,
17 Plaintiff,
18 vs.
19 ESMEDIA GUMMERSON,
20 Defendant.

21 Case No.: 2:12-mj-380-CWH

22 **UNOPPOSED MOTION TO QUASH**
WARRANT AND SET FOR STATUS
CONFERENCE

23 (Expedited Consideration Requested)

24 COMES now the defendant, Esmedia Gummerson, by and through counsel, Rene L.
25 Valladares, Federal Public Defender, and HEIDI A. OJEDA, Assistant Federal Public Defender,
26 counsel for Esmedia Gummerson, and moves this court to quash the bench warrant issued on June
27 25, 2013, and schedule a status conference, no sooner than sixty (60) days or at the Court's desire.

28 This unopposed motion is filed for the following reasons:

29 1. On June 25, 2013, the Court held a status conference in this case. Ms. Gummerson
30 did not appear for the scheduled status conference and failed to appear for her prior status conference
31 on May 21, 2013. On June 25, 2013, undersigned counsel represented that several attempts were
32 made to contact Ms. Gummerson, and Ms. Gummerson failed to respond. The Court records
33 indicate that Ms. Gummerson's only remaining obligations to the Court include the DUI and VIP
34 classes and payment of a \$10 outstanding balance. Because Ms. Gummerson failed to appear and
35 was unresponsive to her counsel's attempts to communicate, the Court reluctantly issued a bench
36 warrant.

1 2. The Office of the Public Defender office sent Ms. Gummerson a letter informing her
 2 of the issued bench warrant on June 25, 2013.

3 3. On July 3, 2013, Ms. Gummerson contacted undersigned counsel after receiving
 4 notice that the bench warrant was issued. Ms. Gummerson informed counsel that she was laid off
 5 from her job in May of this year. Since that time, she has been unemployed and struggling
 6 financially. Additionally, her husband has been sick and hospitalized for periods of time. Because
 7 she is not working, she is struggling financially, and had no access to working transportation and no
 8 money to keep her phone active over the past few months. Any additional money each month was
 9 spent on prescription medication for her husband, to alleviate his pain. Ms. Gummerson's
 10 husband's health appears to have stabilized. She now has access to a car and a cell phone. The loss
 11 of her job and her husband's failing health contributed to her failure to complete her remaining
 12 conditions and appear in court when ordered.

13 4. The information provided by Ms. Gummerson appears consistent with her behavior
 14 to date. Ms. Gummerson was originally sentenced in June 2012. She was present for the first two
 15 status checks set by the Court, and made substantial progress towards completing her obligations to
 16 the Court; she completed 60 hours of community service (30 hours originally imposed and the 30
 17 hours that were converted from the fine). The first status check that she failed to appear for was on
 18 May 21, 2013, which was after she lost her job.

19 5. Ms. Gummerson is still unemployed and currently does not have the money to pay
 20 for the DUI and VIP classes. Counsel, therefore asks that the Court set this matter for status
 21 conference no sooner than 60 days to allow Ms. Gummerson time to save up money for the courses
 22 or obtain employment and become financially stable to pay for the classes.

23 6. Based upon the particular circumstances of Ms. Gummerson, her good faith effort in
 24 reaching out to counsel upon notice that a bench warrant was issued and AUSA Kathryn Newman¹
 25 having stated to counsel she has no opposition to the motion, and in the best interest of justice, the
 26 defendant respectfully requests: that the bench warrant be quashed, that she be given additional time

27
 28 ¹ AUSA Kathryn Newman originally requested the bench warrant at the status check on
 June 25, 2013. Counsel of record Nadia Ahmed is on leave.

1 to complete the her DUI and VIP classes and pay the \$10 fine, and that this case be placed on
2 calendar for a status conference, no sooner than sixty (60) days hence.

3 DATED this 3rd day of July, 2013.

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5 RENE L. VALLADARES
6 Federal Public Defender
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By: /s/ Heidi A. Ojeda
HEIDI A. OJEDA
Assistant Federal Public Defender

1 UNITED STATES DISTRICT COURT

2 DISTRICT OF NEVADA

3 UNITED STATES OF AMERICA,

Case No.: 2:12-mj-380-CWH

4 Plaintiff,

5 vs.

6 ESMEDIA GUMMERSON,,

7 Defendant.

FINDINGS OF FACT, CONCLUSIONS OF
LAW, AND ORDER

8 **FINDINGS OF FACT**

9 Based on the pending unopposed motion of counsel, and good cause appearing
10 therefore, the Court finds that:

11 1. On June 25, 2013, the Court held a status conference in this case. Ms. Gummerson
12 did not appear for the scheduled status conference and failed to appear for her prior status conference
13 on May 21, 2013. On June 25, 2013, undersigned counsel represented that several attempts were
14 made to contact Ms. Gummerson, and Ms. Gummerson failed to respond. The Court records
15 indicate that Ms. Gummerson's only remaining obligations to the Court include the DUI and VIP
16 classes and payment of a \$10 outstanding balance. Because Ms. Gummerson failed to appear and
17 was unresponsive to her counsel's attempts to communicate, the Court reluctantly issued a bench
18 warrant.

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27 spent on prescription medication for her husband, to alleviate his pain. Ms. Gummerson's husband's
28 health appears to have stabilized. She now has access to a car and a cell phone. The loss of her job

1 and her husband's failing health contributed to her failure to complete her remaining conditions and
2 appear in court when ordered.

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6 the Court; she completed 60 hours of community service (30 hours originally imposed and the 30
7 hours that were converted from the fine). The first status check that she failed to appear for was on
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12 or obtain employment and become financially stable to pay for the classes.

13 6. Based upon the particular circumstances of Ms. Gummerson, her good faith effort in
14 reaching out to counsel upon notice that a bench warrant was issued and AUSA Kathryn Newman²
15 having stated to counsel she has no opposition to the motion, and in the best interest of justice, the
16 defendant respectfully requests: that the bench warrant be quashed, that she be given additional time
17 to complete the her DUI and VIP classes and pay the \$10 fine, and that this case be placed on
18 calendar for a status conference, no sooner than sixty (60) days hence.

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² AUSA Kathryn Newman originally requested the bench warrant at the status check on June 25, 2013. Counsel of record Nadia Ahmed is on leave.

CONCLUSIONS OF LAW

The Defendant has demonstrated good faith efforts to meet the court ordered requirements and resolve the outstanding bench warrant. Therefore, the interest of justice is best served by quashing the previously issued warrant and permitting the defendant adequate time to complete his court ordered obligations.

ORDER

IT IS THEREFORE ORDERED that the bench warrant for arrest issued for defendant
ESMEDIA GUMMERSON is hereby quashed and this matter rescheduled for Status Conference
hearing on November 12, 2013 at the hour of 1:30 p.m.

DATED this 10th day of July, 2013.

UNITED STATES MAGISTRATE JUDGE

CERTIFICATE OF ELECTRONIC SERVICE

The undersigned hereby certifies that I am an employee of the Law offices of the Federal Public Defender for the District of Nevada and am a person of such age and discretion as to be competent to serve papers.

That on August 27, 2009, I served an electronic copy of the above and foregoing

UNOPPOSED MOTION TO QUASH WARRANT AND SET FOR STATUS CONFERENCE

(Expedited Consideration Requested) by electronic service (ECF) to the person named below:

DANIEL G. BOGDEN
United States Attorney
KATHRYN NEWMAN
Assistant United States Attorney
333 Las Vegas Blvd. So., 5th Floor
Las Vegas, Nevada 89101

/s/ Karen Meyer
Karen Meyer, Legal Secretary to
HEIDI A. OJEDA,
Assistant Federal Public Defender